

United States
Department of the Interior
Bureau of Land Management

Miles City Field Office

**Range Buried Fiber Optic
Cable Installation
Right-of-Way MTM-105410**

Environmental Assessment (EA)
DOI-BLM-MT-C020-2013-0072-EA

For Further Information Please Contact:

Bureau of Land Management
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301
406-233-2800

BLM



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

ENVIRONMENTAL ASSESSMENT REVIEW

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|--|------------------------------|
| OFFICE/AREA: Miles City Field Office | DOI-BLM-MT-C020-2013-0072-EA |
| | DATE ENTERED: 1/28/2013 |
| NAME: Range Buried Fiber Optic Cable Installation Right-of-way MTM-105410 | DATE DUE: 2/4/2013 |
| | FUNDING: Applicant |
| LOCATION: T. 8 S., R. 60 E., Section 22: SE ¹ / ₄ NE ¹ / ₄ , N ¹ / ₂ SE ¹ / ₄ and Section 23: SW ¹ / ₄ NW ¹ / ₄ , Carter County, Montana | SERIAL #: MTM-105410 |

| ORIGINATOR DATE/INITIALS | TITLE | ASSIGNMENT |
|-----------------------------|-------------------|---|
| Dalice Landers 1/28/13 DDL | Realty Specialist | Project Coordinator and Lands and Realty |

| REVIEWERS | TITLE | ASSIGNMENT | DATE/INITIALS |
|-------------------|-------------------------------|----------------------------------|--|
| Bobby Baker | Wildlife Biologist | Wildlife/T&E | 2/6/13 BJB |
| Doug Melton | Archaeologist | Cultural/Paleo | 1/29/13 DM Cultural Report MT-020-13-88 |
| Brenda Witkowski | Natural Res. Spec. | Weeds | 1/29/2013 BSW |
| Dena Lang | Outdoor Recreation Planner | Recreation, VRM, & Wilderness | 2/5/13 DJL |
| Melissa Schroeder | Soil Scientist | Soils | 02.11.2013 MJS |
| | | | |



ENVIRONMENTAL COORDINATOR

3/4/2013
DATE



SUPERVISORY LAND USE SPECIALIST

3/4/2013
DATE

ENVIRONMENTAL ASSESSMENT

EA NUMBER: DOI-BLM-MT-C020-2013-0072-EA Serial Number: MTM-105410

PROPOSED ACTION/TITLE TYPE:

Range Fiber Optic Telecommunications Cable Right-of-way MTM-105410

LOCATION OF PROPOSED ACTION:

T. 8 S., R. 60 E., Section 22: SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and
Section 23: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Carter County, Montana, PMM

PREPARING OFFICE: Miles City Field Office

APPLICANT: Range Telephone Cooperative, Inc.
P. O. Box 127
Forsyth, Montana 59327

DATE OF PREPARATION: January 28, 2013

CONFORMANCE WITH APPLICABLE LAND USE PLAN: The proposed action is in conformance with the Powder River Resource Area RMP/EIS ROD which was approved on March 15, 1985. On page 4 of the Record of Decision, it states "Rights-of-way applications will continue to be approved on a case-by-case basis with appropriate stipulations. Applicants are encouraged to locate new facilities within existing rights-of-way." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

PURPOSE AND NEED: Range Telephone Cooperative, Inc. proposes to install a buried fiber optic upgrade project to provide advanced telecommunication services to customers in Carter County, Montana. The customers will be provided with access to the latest innovations in the communication industry such as video, high-speed internet, and enhanced capacities for voice and data transmission. In order to supply adequate and upgraded services to this area, Range Telephone proposes to install a fiber optic cable and other necessary telecommunication facilities and appurtenances along the county road.

PROPOSED ACTION: Range Telephone Cooperative, Inc. would like to improve telecommunication services to their customers in Carter County, Montana. Range Telephone would like to install an underground fiber optic telecommunications cable along with telecommunication facilities and appurtenances along the county road. The proposed route was selected because it is the most direct route. Alternative routes were evaluated, but were not pursued due to an overall increase in distance along with added difficulty of rough terrain. This alternative would cause less disturbance than the other alternatives because it would be located in the county road right-of-way

which already has been disturbed. The proposed cable would cross two parcels of Federal land (Public Domain Land). The right-of-way would be 20 feet wide, 3,600 feet long, and consist of 1.65 acres, more or less.

The fiber optic cable would be buried using the direct static plow method and directional boring. Directional boring would be used on all stream crossings. The small diameter cables would be placed in the ground in a narrow slot using a vertical cable plow which is pulled by one or more crawler tractors. The operation is a continuous process that does not create any open trenches. The trench would be approximately three inches wide. This would allow for minimal ground disturbance of the cat tracks and the plow scar. There would be periodic above-ground, standard fiber pedestals that serve as connection points and are necessary for the splicing and maintenance of the cable. The nominal depth is a minimum of 42 inches on Federal lands. One pickup would be required for the survey. Static plowing would require one static plow, one caterpillar, and one pickup with a trailer. Clean-up would require two pickups. Rehabilitation would require one pickup. Thirteen people would be required for the whole project. Some of the people will be the same for each portion of the construction. No clearing or grading of the proposed route would be needed. Construction activities would start in the summer/fall of 2013 and would probably be completed in one month. Access would be from the county road. No new roads would be needed. The line would be operated on a year-around basis. Construction activities would cease if precipitation occurs and would not resume until the ground is sufficiently dry to eliminate surface damage by construction equipment. No known hazardous materials would be used during construction or any time on the right-of-way. No site clearing or topsoil removal would be necessary. Once constructed, the line would require minimal expenditures for operation and maintenance. Periodic inspections would be conducted by Range Telephone to ensure the line's structural integrity. Right-of-way construction and use would be monitored by the BLM. There would be no blading so no seedmix would be needed; the small amount of disturbance would revegetate naturally. There would be no temporary use areas needed.

Termination activities for the Federal surface area would be conducted in much the same manner as construction activities. Access would be available along the same route. Their above-ground appurtenances would be removed and disposed of in a licensed landfill. The buried line would be left in the ground.

The right-of-way would be issued pursuant to 43 CFR 2800, Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2776; 43 U.S.C. 1761), and in accordance with the April 1982 Memorandum of Understanding between the Bureau of Land Management and the Montana Associated Utilities for the construction, operation, maintenance, and termination of the proposed project. The right-of-way would be subject to the terms and conditions in 43 CFR 2800, the terms and conditions and stipulations specified below, and mitigations set forth in the application. They requested a permanent right-of-way term, but the maximum issue period is for 30 years and be renewable. Range Telephone would be subject to cost recovery, but would be exempt from rental because they are an affiliate of the Rural Electrification Act. The line is proposed to be constructed in the summer/fall of 2013. The line would be used on a year around basis to transport phone service to their customers.

The standard stipulations for cultural and/or paleontological resource protection and toxic substances would be made a part of the right-of-way grant, as would the standard stipulation that all activities associated with the right-of-way would be conducted within the authorized limits of the grant. The applicant shall be responsible for weed control on disturbed areas within the limits of the right-of-way. There would be no construction or routine maintenance when the soils are too wet. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and the regulations of the Secretary of the Interior issued pursuant thereto. The right-of-way would be subject to mitigations set forth in the application and plan of development. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

ALTERNATIVE 1 - NO ACTION: The no action alternative would be not to allow Range Telephone Cooperative, Inc. a right-of-way across Federal land.

AFFECTED ENVIRONMENT:

The following critical resources have been evaluated and are not affected by the proposed action or the alternatives in this EA:

| Mandatory Item | Potentially Impacted | No Impact | Not Present On Site |
|------------------------------------|-----------------------------|------------------|----------------------------|
| Threatened and Endangered Species | | | X |
| Floodplains | | | X |
| Wilderness Values | | | X |
| ACECs | | | X |
| Water Resources | | X | |
| Air Quality | | X | |
| Cultural or Historical Values | | X | |
| Prime or Unique Farmlands | | | X |
| Wild & Scenic Rivers | | | X |
| Wetland/Riparian | | | X |
| Native American Religious Concerns | | | X |
| Wastes, Hazardous or Solids | | | X |
| Invasive, Nonnative Species | | | X |
| Environmental Justice | | X | |

The following non-critical resources will not be impacted by this proposed action; therefore they will not be analyzed in detail by this Environmental Assessment: forestry, riparian, hydrology, wilderness, wild horse/burro, fire, geology, minerals, noise, and weeds.

Cultural: The location of the proposed action has been inventoried for cultural resources. Range Telephone had Ethnoscience of Billings, MT prepare a Class I report for the buried pone line between Alzada and Albion, Montana. The reported noted that area crossing BLM managed lands was inventoried as part of the Highway 323 Project and that no cultural resources were found on the

east side of the highway in Section 22 (See BLM Cultural Resources Report MT-020-13-88). Based on the previous inventory, BLM has determined that the project would have no effect to cultural properties listed on or eligible for listing on the National Register of Historic Places.

The proposed undertaking is listed on the state geological map as being in the Upper Cretaceous Carlile Shale. The Carlile Shale has a Potential Fossil Yield Classification (PFYC) rating of 3b. This means that the paleontological potential of the formation is unknown but may yield scientifically important fossils. No paleontological localities are reported from the section in the Miles City Paleontological Database or previous inventory work. No additional paleontological work is recommended subject to the cultural/paleo stipulation attached to the ROW grant.

Lands/Realty: There are several existing BLM-issued rights-of-way in the vicinity. MTM-57064 is issued to Southeast Electric Cooperative, Inc. for overhead electric line on the east side of the highway. MTM-59032 is issued to Range Telephone Cooperative, Inc. for a buried fiber optic and copper telecommunications line on the west side of the highway. MTM-059440 and MTM-91060 are issued respectively to Montana Highway Commission and Federal Highway Administration, respectively, for the highway.

Soils: Soils generally developed from alluvium and residuum derived from the Carlile Formation. The principal ecological sites are silty or shale (MLRA 60B, 10-14 p. z). Surface textures are typically loam or silty clay. Terrain is gentle, with slopes ranging around 5 percent. The elevation is approximately 3,400 feet. Approximately 60 percent (apx. 1 ac.) of the project area is considered poorly suited to reclamation because soils are droughty or have high sodium content.

Vegetation: The principal forage species are western wheatgrass, bluegrass, and cheatgrass brome. The distinguishing species are willow and cottonwood. The common grass species are needle-and-thread, blue grama, and saltgrass. Common shrubs are rose, sagebrush, silver sagebrush, rabbitbrush, common snowberry, and silver buffaloberry. Common forbs are lambsquarter, goosefoot, sunflower, stickseed, and plantain.

Visual Resource Management: The VRM objective of this class is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic landscape.

Wildlife: Habitat within the general area supports game species including mule deer, white-tailed deer, pronghorn, and sage grouse. Winter range habitat has been identified for all three big game species at this location. In addition, the project is within a large polygon in Carter County that has been designated as Preliminary Priority Habitat (PPH) for sage grouse as identified in IM-2011-043. Sage grouse leks CA-118 and CA-035 are located to the NW 2.69 miles, and SE 4.5 miles, respectively. A variety of non-game species would also be expected to utilize the area, including raptors, songbirds, and others.

Although habitat exists for a variety of wildlife, habitat within the area of the proposed action would be considered less than optimal due to the action occurring in a ROW of a regularly used county road. Those species intolerant of disturbance would only infrequently be expected to utilize the project area. A smaller proportion of wildlife species may be attracted to some level of disturbance and would be expected to utilize the area around gravel roads, such as horned larks.

ENVIRONMENTAL IMPACTS:
DESCRIPTION OF IMPACTS FROM PROPOSED ACTION:

Cultural: The proposed action would not impact cultural resources. Previous inventory did not locate cultural materials in the project area. Unanticipated discoveries of cultural or paleontological materials during construction would be handled through implementation of the cultural/paleo stipulation attached to the ROW grant.

Realty: Care should be used so as not to interfere with the existing BLM-issued rights-of-way.

Soils: Construction associated with the fiber optic cable would result primarily in compaction, with some soil mixing and ground cover removal. The 1.65 acre disturbance area would be located adjacent to a road, in a previously-disturbed area. Compaction would decrease nutrient cycling and increase overland flow until the site returns to natural rates due to freeze–thaw cycles, root development, and the shrink-swell action of clays. Though the proposed action would disturb droughty soils and soils with high sodium content, the disturbance area and impacts to soils would be minimal. Avoiding vehicle use during conditions which lead to ruts greater than four inches deep would reduce soil compaction and mixing by vehicles.

Visual Resource Management: The proposed action would create short term impacts during construction and installation of the fiber optic cable. Disturbance in soil would create changes in the color of the soil altering the view of the landscape as well as disrupting patterns in the vegetation. After re-vegetation and mitigation of the trench occurs, over time, the trench would blend in with the surrounding landscape and would not dominate the view of the casual observer.

Wildlife: As stated, the majority of wildlife species would not be expected to utilize the area of the proposed action. Timing stipulations or other mitigation for wildlife species will not be applied to this action. Still, some displacement of wildlife may occur during construction. Some potential for loss of a small number of reptiles, small mammals, and songbirds may occur. It is not expected that any avian species classified as Bureau sensitive would be affected by this action, as avian sensitive species would not be expected to occupy these areas.

DESCRIPTION OF IMPACTS FROM ALTERNATIVE 1 - NO ACTION:

There would be an impact to the residents in Carter County, if we did not allow Range to obtain a right-of-way to install a fiber optic telecommunications cable in order to provide their customers with internet access and upgraded telephone service.

CUMULATIVE IMPACTS: There will be no other cumulative impacts from this project in addition to those identified in Powder River Resource Management Plan completed in 1985. A detailed discussion of these cumulative impacts can be found on Pages 107 to 124 of the Powder River EIS.

MITIGATION:

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
4. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.
5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized

officer concurrent with the filing of the reports to the involved Federal agency or State government.

6. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

7. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

8. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

9. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

CONSULTATION/COORDINATION:

Brett Mosby, Engineering Manager, Range Telephone Cooperative, Inc.
Craig Bown, Right-of-way Agent/Consultant, Mid-State Consultants

LIST OF PREPARERS:

Doug Melton, Archaeologist
Bobby Baker, Wildlife Biologist
Melissa Schroeder, Soil Scientist
Dena Lang, Outdoor Recreation Planner
Brenda Witkowski, Natural Resource Specialist (Weeds)
Dalice Landers, Realty Specialist

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILES CITY FIELD OFFICE
FINDING OF NO SIGNIFICANT IMPACT**

**RANGE TELEPHONE COOPERATIVE RIGHT-OF-WAY MTM-105410
DOI-BLM-MT-C020-2013-0072-EA**

BACKGROUND

The origin of the environmental assessment was due to a request from Range Telephone Cooperative, Inc. for a right-of-way (ROW) to supply fiber optic telecommunications services to their customers in the Carter County, Montana so they can have upgraded telephone and Internet services.

FINDING OF NO SIGNIFICANT IMPACT

On the basis of the information contained in the EA (DOI-BLM-MT-C020-2013-0072-EA), and all other information available to me, it is my determination that:

- (1) The implementation of the Proposed Action or alternatives will not have significant environmental impacts beyond those already addressed in the Powder River Resource Management Plan.
- (2) The Proposed Action is in conformance with the Record of Decision for the Powder River Resource Management Plan; and
- (3) The Proposed Action does not constitute a major federal action having a significant effect on the human environment.

Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR '1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

Context

The proposed action is a site-specific action which would occur in the area south of Ekalaka in Carter County, Montana which is designated as available for acceptance of ROW proposals in the Powder River RMP. The RMP anticipated that ROW applications would continue to be approved in areas where rights-of-way are allowed and stipulations from the BLM Manual 2800 will be used to protect resource values. The proposed action is in accordance with the Powder River RMP.

Under the Proposed Action, ROW Grant, MTM-105410, would be issued to Range Telephone Cooperative, Inc. to allow them to install an underground fiber optic telecommunications cable

across the following Federal lands (Public Domain) located on:

T. 8 S., R. 60 E., Section 22: SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and
Section 23: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Carter County, Montana, PMM.

This facility will be authorized with a ROW which will be issued under Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761). The ROW will be 20 feet wide and approximately 3,600 feet in length, and consist of 1.65 acres, more or less. The proposed project will be constructed, used, maintained, and terminated in conformance with the company's Plan of Development which was submitted with their application. Range will be subject to cost recovery, but will be exempt from rental in accordance with 43 CFR 2806.14(d) because they are financed under the Rural Electrification Act (REA). The ROW will be subject to the terms and conditions in 43 CFR 2800, the Plan of Development/application, and the stipulations listed below.

Intensity

I have considered the potential intensity/severity of the impacts anticipated from the proposed action and all alternatives relative to each of the ten areas suggested for consideration by the CEQ.

1. Impacts that may be both beneficial and adverse. The proposed project would impact resources as described in the EA. In addition to mitigation measures included in the project design, BLM developed additional mitigation measures to further minimize or eliminate adverse impacts to other resources and land uses. These additional mitigation measures are identified in the proposed action and are attached to this document as ROW Stipulations. The EA also disclosed beneficial impact from the proposed project that they would provide their customers with upgraded phone and Internet services. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the Powder River Resource Area Management Plan.

2. The degree to which the proposed action affects public health and safety. No aspect of the proposed action would have an effect on public health and safety.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. No cultural resources were located in the inventoried areas on public lands. The proposed action would have no effect to historic properties on Federal lands (See the report number listed in the EA). No parks, prime farmlands, or wild and scenic rivers were found in the area

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial. No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The analysis has not shown that there would be any unique or unknown risks to the human environment.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. This project neither establishes a precedent nor represents a decision in principle about future actions. The proposed action is consistent with actions appropriate for the area as designated by the Powder River RMP.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the EISs which accompanied the Powder River RMP.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources. The proposed action will not adversely affect any district, site, highway, structure, or object listed or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historic resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. There are no threatened or endangered species or habitat in the area of the proposed action.

10. Whether the action threatens a violation of Federal, State, Tribal or Local law or requirements imposed for the protection of the environment. The proposed action does not threaten to violate any Federal, State, Tribal, or local law. Furthermore, the project is consistent with applicable land management plans, policies, and programs.



Todd D. Yeager
Field Manager
Miles City Field Office

3/5/2013

Date

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILES CITY FIELD OFFICE
RECORD OF DECISION**

**RANGE TELEPHONE COOPERATIVE RIGHT-OF-WAY MTM-105410
DOI-BLM-MT-C020-2013-0072-EA**

DECISION

It is my decision to select the Proposed Action Alternative as described in the Range Telephone Cooperative's EA for an underground fiber optic telecommunications cable. The EA and the FONSI analyzed the selected alternative and found no significant impacts. Implementation of this decision will result in the issuance of a Federal Land Policy and Management Act (FLPMA) ROW to Range Telephone Cooperative for an underground fiber optic telecommunications cable. The selected alternative is in conformance with the Powder River Resource Management Plan.

ALTERNATIVES

In addition to the selected alternative, the EA considered the "No Action" alternative, which would carry out no management activities at this time.

RATIONALE FOR SELECTION

The purpose of the action is to allow Range Telephone Cooperative, Inc. to install an underground fiber optic telecommunications cable across the following Federal lands (Public Domain):

T. 8 S., R. 60 E., Section 22: SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and
Section 23: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Carter County, Montana, PMM.

This action would be authorized by the issuance of an FLPMA ROW grant to Range Telephone Cooperative, Inc. The proposed action is in conformance with the Powder River RMP/EIS. This proposed action will provide Range's customer in the area south of Ekalaka in Carter County, Montana with an upgraded phone and Internet services.

CONSULTATION AND COORDINATION

The following BLM specialists were consulted: Doug Melton, Archaeologist; Bobby Baker, Wildlife Biologist; Melissa Schroeder, Soil Scientist; Dena Lang, Outdoor Recreation Planner; Brenda Witkowski, Natural Resource Specialist (Weeds); and Dalice Landers, Realty Specialist. The following Range Telephone specialist was consulted: Brett Mosby, Engineering Manager. Also consulted was Craig Bown, Right-of-way Agent for Mid-State Consultants. The Range Telephone Cooperative, Inc. ROW EA (DOI-BLM-MT-C020-2013-0072-EA) was made available online via the Miles City Field Office NEPA log.

IMPLEMENTATION

Once the Range Telephone Cooperative, Inc. EA FONSI and Decision Record are approved, a

FLPMA ROW grant will be issued to Range Telephone Cooperative, Inc. as described in the subject EA with the identified stipulations included as part of the grant. This decision will be effective immediately. Actions may begin immediately in accordance with any restrictions or constraints imposed by the grant and stipulations. The grant will be monitored for construction, use and termination.

ADMINISTRATIVE REVIEW OPPORTUNITIES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, the notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. If the appellant wishes to file a petition (request) pursuant to regulations 43 CFR 2801.10 for a stay (suspension) of the effectiveness of this decision during the time the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If the appellant requests a stay, they have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.



Todd D. Yeager
Field Manager
Miles City Field Office

3/5/2013

Date

MITIGATION MEASURES/REMARKS:

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
4. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.
5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
6. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

7. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

8. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

9. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.